

Andover Conservation Commission Meeting Minutes
August 17, 2010

Town of Andover
36 Bartlett Street
3rd Floor Conference Room
7:45 pm

Commission Members in Attendance:

Chairman Donald Cooper, Commissioner Alix Driscoll, Commissioner Michael Walsh and Commissioner Jon Honea. Staff members present were Robert Douglas, Director of Conservation and Linda Cleary, Conservation Agent.

SCHEDULED ITEMS:

79 Wild Rose Drive

Present in Interest: Todd Michel

Staff Recommendation: Approve as Neg.1.

Public Meeting on the Request for Determination of Applicability filed to determine if the construction of a single story addition is subject to the Massachusetts Wetlands Protection Act.

Agent Cleary presented this to the Commission. The filing is under the WPA only and is complete. No waivers are needed or requested. The Applicant relied on the Town Wetland Maps which indicate that the proposed work is greater than 50 feet from the BVW. The site is located in the Fish Brook Watershed Protection Overlay District. 95% of the plant community was upland with no evidence of BVW upon staff site visit. Fish Brook is culverted in this area and the culvert is greater than 200 feet in length; this is not considered Riverfront.

Chairman Cooper asked for a Motion. Commissioner Driscoll made a Motion to Approve as Neg.1; it was seconded by Commissioner Walsh and unanimously approved.

2 Wildrose Drive

Staff Recommendation: Continue to date uncertain.

Continued Public Hearing on the Request for Determination of Applicability filed to determine if there are any resource areas within 100 feet of the property with the exception of the north side of Lowell Street is subject to the Massachusetts Wetlands Protection Act.

Agent Cleary presented this to the Commission. This was continued from August 3, 2010 for staff to check with Town Engineer regarding the status of the drainage pipe off-site to the rear of the lot. The Town Engineer confirmed that the off-site drainage pipe to the rear of the lot is connected to the wetland associated with Fish Brook across Lowell Street, which makes buffer an issue on this lot. The Applicant disagrees and wants to go out for peer review with Jeff Bridge.

Chairman Cooper asked for a Motion. Commissioner Driscoll made a Motion to continue to a date uncertain until peer review documentation is reviewed and approved, and monies are submitted by the applicant or the project will be denied. The Motion was seconded by Commissioner Walsh and unanimously approved. Order of Conditions will be voted on at the meeting of September 7, 2010.

172 Holt Road

Present in Interest: Mark Johnson, Bill MacLeod, Mary Ann Marshall, Kenneth St. Pierre, Hugh Kelly, Margaret Behling

Staff Recommendation: Approve and close public hearing.

Public hearing on a Notice of Intent filed under the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law for the proposed construction of a single family dwelling and associated site work. The filing is under the WPA and By-Law and is ready for a decision. The Applicant is seeking a waiver for the setback to a structure. The ZBA granted a variance to pull the house further away from the wetlands allowing it to comply with all setbacks, except it is 42 feet from the BVW. The ZBA did put a condition that a conservation restriction be placed on the rear portion of the lot with no right to public access. Nondisturb markers are installed. There will be rooftop and driveway infiltration. DEP has no comments. The wetland flags must be refreshed prior to issuing a permit.

Commissioner Walsh asked what the normal setback on Holt Road is. The setback is 40 feet; the ZBA is allowing 30 feet.

Commissioner Driscoll asked the monetary advantage the Applicant will receive by placing a Conservation Restriction on the property. There will be none as the taxes are based on the value of the dwelling.

Chairman Cooper remarked on the substantial amount of mitigation with the Conservation Restriction and non-disturbance zone as part of the mitigation. There will also be no enlargement of the home in the future.

Hugh Kelly addressed the Commission to oppose the project because of the impact on the drainage in the area. The drainage from Blueberry Hill goes into the wetland and will run into an infiltration trench along the back of the driveway.

Chairman Cooper asked for a Motion. Commissioner Driscoll made a Motion to close the public hearing and approve the project with the wetland lines reflagged prior to construction; it was seconded by Commissioner Walsh and unanimously approved.

MBTA Right-of-Way

Present in Interest: Alison Fecht, Keith Saxon, Amy and Tony Welterskoy, Jack Connors, Paul and Pat Pakos, David Guilmet, Mike Murnane, Joseph and Dorothy Ogodowczyk, Michael Cifell, Kay Andaya, Phyllis Jardine, Pam Thornton, Fred Champy, Phil Orlandella, Gerald Steeves, Steve and Karen Shepard, T. Truong, Don Milligan, Marie Barron, Craig Milligan, James McNally, Shirley Bradley, Ben Kazner, and Sheila Ballinges.

Staff Recommendation: Continue to date uncertain.

Public hearing on a Notice of Intent filed under the Massachusetts Wetlands Protection Act for the proposed construction of double track installation, track rehabilitation, signal and power cable installation within the existing MBTA Right-of-Way from north of the Andover Commuter Rail Station at Ballardvale north to the Andover/Lawrence Town lines.

Mr. Douglas presented this to the Commission. The filing is under the WPA only and is complete. No waivers have been requested. The project is within our 25 foot non-disturb, but all work is done within an existing right of way on an existing rail bed. It will cross the Shawsheen River, but not damage the resource area. The work will add a new rail to a rail bed that previously held a tract. The area will be protected by silt fence and be assigned an inspector by the contractor.

Jack Connors addressed the Commission. Roughly 5 ½ miles of track is being rebuilt with signal upgrades and interlocking improvements. MBTA has received a federal grant to cover the cost of the upgrades. There will be no taking of property as all of the work will be done within the right of way using the original footprint from the existing double track. Any excavation will be limited to grading within the right of way. There will also be drainage improvements at the Essex Street crossing. The design is pending within the next few weeks.

There are wetlands at the edge of the railway which makes this a buffer zone project and Riverfront is some areas. Everything will be flagged and there will be no disturbed area outside of the right of way.

Commissioner Driscoll asked how the flooding on the Shawsheen would be dealt with. Commissioner Walsh asked if there would be any staging areas outside of the right of way or stockpiling. There will be neither.

Chairman Cooper asked what other hearings had been done with the Town of Andover. What is the timing of the project? The project will be completed by December 21, 2011 as the grant must be spent by the deadline.

Gerald Steves informed the Commission that the drain pipe from the back of the tracks floods his basement. He has called numerous times with no response. Jack Connors asked him to put in writing with pictures.

Mike Murnane said the drain pipe from Clark Road into a stone culver is compromised and cannot get under the tracks which results in 3-4 feet of flooding in his backyard. He will document in writing and submit pictures.

Fred Champy asked what would happen to the ties being ripped out. The old ties will be taken off site.

Chairman Cooper asked for a Motion. Commissioner Driscoll made a Motion to continue to a date uncertain for drainage improvements to be submitted and flood plain marked on plans, it was seconded by Commissioner Walsh and unanimously approved.

Harold Parker State Forest

133 Jenkins Road

Present in Interest: Kevin McCue, Mike Toohill and Kevin Reiler.

Staff Recommendation: Approve.

Public hearing on a Notice of Intent filed under the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law for the proposed installation of new water mains, replacement of existing water mains, installation of new hose bibs at each campsite and the relocation of overhead electric lines to subsurface conduits within the Lorraine Park Campground of the Harold Parker State Forest.

Chairman Cooper recused himself from the hearing.

Agent Cleary presented this to the Commission. The filing is under the WPA and By-Law. The filing is not complete per our submittal and plan requirements. DEP has no comments.

Waivers requested are:

1. 25 foot no-disturb line;
2. 50 foot no-build line;
3. Edge of forest and tree line;
4. FEMA flood plane map.

Each campsite must have hot water service per state regulations if the sites are for RVs. The existing trenching system will be used. If the funds are available, they would like to bury the electric underground as well, all in existing roadway.

The proposed work qualifies as a Limited Project under 310 CMR 10.53(3) (d) for installation and construction of public utilities. Proposed work qualifies as redevelopment under 310 CMR 10.58(5) – improves existing conditions. Proposed work is in the buffer zones of the following resource areas on site: Riverfront (Skug River and Frye Brook), outer riparian zone (100-200 ft); Bordering Vegetated Wetland; Land Under Waterbodies; Bank; and Bordering Land Subject to Flooding. Agent needs to review lengthy BVW line.

The Commission found that Stormwater Management Regulations do not apply as no new above ground structures are proposed or impervious surfaces. There is no net loss of Bordering Land Subject to Flooding as a result of the proposed work. Waivers requested for plan and submittal requirements.

DEP has no comments.

Commissioner Driscoll made a Motion to continue to September 7, 2010 for staff to review wetland line; it was seconded by Commissioner Honea and unanimously approved.

81 Jenkins Road

Present in Interest: Kevin Kieler

Staff Recommendation: Approve and issue Order of Conditions

Continued Public Hearing on a Notice of Intent filed under the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law for the proposed construction of a sunroom and deck.

Mr. Douglas presented this to the Commission. This was continued from August 3, 2010 for the applicant to meet submittal requirements which were not waived and for the Commission to make a site visit on August 5, 2010 with staff. The filing is under the WPA only and does not meet our setbacks. The wetlands have risen to meet the house due to beaver activity. The site walk has been completed, soil maps submitted, Natural Heritage Map has been submitted and spot grades have been added to the plan. There is no DEP number yet.

The Applicant signed the waiver for lack of quorum.

Chairman Cooper asked for a Motion. Commissioner Driscoll made a Motion to approve and issue the Order of Conditions, but not close the hearing with the intent to issue the Order of Conditions on September 7, 2010. Commissioner Driscoll seconded the Motion and it was unanimously approved.

ACTION ITEMS:

Bald Hill Scout Project

Present in Interest: Colin Rivet

Staff Recommendation: Approve

Presentation by Eagle Scout Colin Rivet for a proposed project including the building of a kiosk and benches at the new parking area. The kiosk will have a 4 x 4 Plexiglas case with a frame that will flip up to change the notices and will be locked.

Commissioner Walsh made a Motion to Approve the project; it was seconded by Commissioner Driscoll and unanimously approved.

407 South Main Street

Staff Recommendation: Approve

Request from Scott Kelloway for cessation of reports.

Commissioner Walsh made a Motion to Approve; it was seconded by Commissioner Driscoll and unanimously approved.

CONSENT AGENDA

4 Meadow Brook Drive

Issuance of a Notification of Satisfactory Completion of Work Certificate.

4 Parnassus Place

Issuance of a Notification of Satisfactory Completion of Work Certificate.

Minutes

Approval of minutes from meeting of July 20, 2010.

Commissioner Driscoll made a Motion to Approve the Consent Agenda; it was seconded by Commissioner Walsh and unanimously approved.

DISCUSSION ITEMS:

Fosters Pond Land Purchase

Purchase and Sale Agreement for the purchase of "Deloury Property". We have an agreed upon Purchase and Sale Agreement and the Town will now pursue a grant for the purchase money.

INFORMATION ITEMS THAT MAY REQUIRE A VOTE:

**Atria Marland Place
10 Stevens Street**

Ratification of an Emergency Certification for the repair of a collapsed river wall as a result of impact from flood water debris. The work was done without notification to the Conservation Commission.

Commissioner Driscoll made a Motion to Ratify; it was seconded by Commissioner Walsh and unanimously approved.

The next meeting will be held at 7:45pm on September 7, 2010.

The meeting was adjourned at 10:15pm by Motion of Commissioner Walsh, seconded by Commissioner Driscoll and unanimously approved.

Respectfully submitted by:

**Lynn Viselli,
Recording Secretary**